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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

DOCKET NO. SW-02361A-08-0609

IN THE MATTER OF THE APPLICATION OF
BLACK MOUNTAIN SEWER CORPORATION,
AN ARIZONA CORPORATION, FOR A
DETERMINATION OF THE FAIR VALUE OF ITS
UTILITY PLANT AND PROPERTY AND FOR
INCREASES IN ITS RATES AND CHARGES FOR
UTILITY SERVICE BASED THEREON.

PROCEDURAL ORDER

BY THE COMMISSION:

On December 19, 2008, Black Mountain Sewer Corporation ("BMSC" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for a rate increase.

On January 20, 2009, the Commission's Utilities Division ("Staff") filed its Letter of Sufficiency indicating that BMSC satisfied the requirements of Arizona Administrative Code ("A.A.C.") R14-2-103 and classifying the Company as a Class B utility.

By Procedural Order issued January 23, 2009, a hearing date of September 21, 2009, was established, publication and mailing of notice was ordered, and various other filing dates were established.

On June 12, 2009, Staff filed a Motion for Extension of Time ("Motion"). In its Motion, Staff requested an additional 60 days to file its Direct Testimony because the lead Staff analyst is no longer employed with the Commission, and because Staff is extremely short-handed and has a heavy workload. Staff requested that the other responsive testimony filing dates, as well as the September 21, 2009 hearing date, also be extended accordingly.

On June 15, 2009, BMSC filed a Response to Staff's Motion for Extension of Time. BMSC opposed Staff's Motion on the basis that a change of rate analysts is an insufficient reason for granting an extension of the procedural schedule. The Company claimed, among other things, that it has done nothing wrong and "should not be made to shoulder the burden of another party's personnel

1 changes.” BMSC suggested that if Staff’s Motion is granted, the Commission should provide a
2 remedy that would allow the Company to recover any revenue lost as a result of the delay.

3 By Procedural Order issued June 17, 2009, a procedural conference was scheduled for June
4 30, 2009, to discuss Staff’s Motion for Extension of Time.

5 On June 17, 2009, the Residential Utility Consumer Office filed a Response in Support of
6 Staff’s Motion for Extension of Time.

7 On June 17, 2009, Mr. Dennis E. Doelle, D.D.S., filed a Motion to Intervene.

8 The procedural conference was held, as scheduled, on June 30, 2009. Following the
9 arguments regarding Staff’s extension request, Staff’s Motion was granted and the parties were
10 directed to develop a new procedural schedule and hearing date in accordance with that ruling.

11 On July 13, 2009, Staff filed a Request for a Procedural Order. Staff proposed new testimony
12 filing dates and a new hearing date consistent with its requested 60-day extension. Staff indicates
13 that there is no objection to the proposed dates.

14 IT IS THEREFORE ORDERED that the **hearing** in the above-captioned matter **shall be**
15 **rescheduled to commence on November 18, 2009, at 9:30 a.m.**, at the Commission’s offices, 1200
16 West Washington Street, Hearing Room #1, Phoenix, Arizona 85007.

17 IT IS FURTHER ORDERED that the **hearing scheduled for September 21, 2009, at 9:30**
18 **a.m., shall be held as scheduled for the limited purpose of taking public comment.**

19 IT IS FURTHER ORDERED that the **prehearing conference scheduled for September 18,**
20 **2009, shall be vacated and rescheduled for November 17, 2009, at 10:00 a.m.**, for the purpose of
21 scheduling witnesses and the conduct of the hearing.

22 IT IS FURTHER ORDERED that, in accordance with Staff’s proposal, **the following revised**
23 **procedural schedule shall be observed:**

24 **Staff/Intervenor Direct Testimony – September 18, 2009**

25 **Company Rebuttal – October 19, 2009**

26 **Staff/Intervenor Surrebuttal – November 9, 2009**

27 **Company Rejoinder – November 16, 2009**

1 IT IS FURTHER ORDERED that the intervention request of Dennis E. Doelle, D.D.S., is
2 granted.

3 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
4 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
5 *pro hac vice*.

6 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
7 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
8 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances
9 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is
10 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
11 Administrative Law Judge or the Commission.

12 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
13 Communications) applies to this proceeding and shall remain in effect until the Commission's
14 Decision in this matter is final and non-appealable.

15 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
16 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

17 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
18 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
19 hearing.

20 DATED this 20th day of July, 2009.

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23
24 
25 DWIGHT D. NODES
26 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE
27
28

Copies of the foregoing mailed/delivered
this 20th day of July, 2009 to:

Greg Sorenson
ALGONQUIN WATER SERVICES
12725 W. Indian School Rd., Suite D-101
Avondale, AZ 85392

Jay L. Shapiro
Norman D. James
FENNEMORE CRAIG, PC
3003 N. Central Ave., Suite 2600
Phoenix, AZ 85012
Attorneys for Black Mountain Sewer
Corporation

Jodi Jerich, Director
RUCO
1110 W. Washington, Suite 220
Phoenix, AZ 85007

Scott S. Wakefield
RIDENOUR, HIENTON & LEWIS
201 N. Central Ave., Suite 3300
Phoenix, AZ 85004-1052
Attorneys for Boulders HOA

Thomas K. Chenal
David W. Garbarino
SHERMAN & HOWARD, L.L.C.
7047 E. Greenway Parkway, Suite 155
Scottsdale, AZ 85254-8110
Attorneys for the Town of Carefree

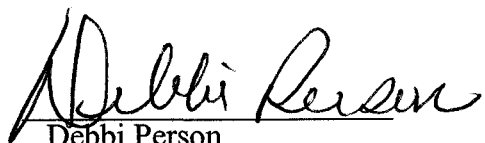
M. M. Schirtzinger
34773 North Indian Camp Trail
Scottsdale, AZ 85266

Roger Strassburg
ROGER STRASSBURG, P.L.L.C.
9117 E. Los Gatos Drive
Scottsdale, AZ 85255
Attorney for Dennis E. Doelle, D.D.S

Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Ernest G. Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
Phoenix, AZ 85004-1481

By: 
Debbi Person
Assistant to Dwight D. Nodes